

## **CHAPTER 19**

### **SETTLEMENT AGREEMENTS**

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## **CHAPTER 19**

### **SETTLEMENT AGREEMENTS**

#### **I. INTRODUCTION.**

- A. Government Policy. Try to resolve all contractual issues in controversy by mutual agreement at the contracting officer's level. Reasonable efforts should be made to resolve controversies prior to the submission of a claim. FAR 33.204.
- B. Settlement agreements. Most contract disputes are settled. The government must take great care to ensure it crafts an agreement that reflects the parties' intentions and protects the government.
- C. The government's consideration for a settlement agreement is a release, the object of which is to kill the claim. Claims, however, have multiple lives.

#### **II. PRE-NEGOTIATION CONSIDERATIONS.**

- A. Authority to Settle.
  - 1. Government. Actual authority is required. Federal Crop Insurance Co. v. United States, 332 U.S. 380 (1947).
  - 2. Contracting officer.
    - a. Under FAR 33.210, contracting officers are authorized to decide or resolve all claims that are within the specific limitations of their warrants,<sup>1</sup> except:

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<sup>1</sup> The agency may require the approval of a settlement at a level higher than the contracting officer. See Construcciones Electromecanicas S.A., ASBCA No. 41413, 94-1 BCA ¶ 26,296 (motion for summary judgment denied where settlement agreement had not received required approval of Directorate of Contracting Headquarters Tactical Air Command).

- (1) Claims or disputes for penalties or forfeitures prescribed by statute or regulation that another Federal agency is specifically authorized to administer, settle, or determine; or
- (2) The settlement, compromise, payment or adjustment of any claim involving fraud.

- b. In the Army, the contracting officer is required to advise the Chief Trial Attorney (CTA) of all offers of settlement made by the contractor, and must consult with the CTA prior to accepting an offer of settlement or making an offer of settlement. AFARS 33.212-90-7(a).

### 3. Trial Attorney at ASBCA.

- a. A trial attorney has no inherent authority to settle a claim. John C. Grimberg Company, Inc. and The Hartford Fidelity & Bonding Company, ASBCA No. 51693, 99-2 BCA ¶ 30,572 (board unwilling to assume trial attorney has authority to settle an appeal); J.H. Strain & Sons, Inc., ASBCA No. 34432, 88-3 BCA ¶ 20,909 (contracting officer refused to approve a "tentative settlement agreement" reached by trial attorney); Cf. Defoe Shipbuilding Co., ASBCA No. 17095, 74-1 BCA ¶ 10,537 (board found trial attorney lacked authority to concede liability in the government's brief, and allowed withdrawal of concession).
- b. Agency regulations may address the scope of a trial attorney's authority. See AFARS 33.212-90-7.
- c. The Chief Trial Attorney (CTA) of the Army has all necessary authority to conclude settlement agreements with the concurrence of the contracting officer, the reviewing official designated by the Head of the Contracting Activity, or the Deputy Assistant Secretary of the Army for procurement (DASA(P)). AFARS 33.212-90-7(b).

### B. Role of Agency When Matter Is In Litigation.

1. Represented by the Department of Justice (DOJ). 28 U.S.C. §§ 516, 518-519. The DOJ has plenary authority to settle cases pending in the COFC. See 28 U.S.C. § 516; see also Executive Business Media v. Department of Defense, 3 F.3d 759 (4th Cir. 1993).
  - a. This CONTRACTING OFFICER loses authority to decide or settle claims arising out of the same operative facts. The Sharman Co., Inc. v. United States, 2 F.3d 1564 (1993).
2. Attorney General has authority to settle and has delegated that authority depending upon dollar value of settlement. 28 C.F.R. § 0.160, *et seq.*, *e.g.*, AAG, Civil Division may settle a defensive claim when the principal amount of the proposed settlement does not exceed \$2 million. The AAG has redelegated office heads and U.S. Attorneys, but redelegation subject to exceptions, including situations in which agency opposes settlement.
3. Agencies must be consulted regarding “any significant proposed action if it is a party, if it has asked to be consulted with respect to any such proposed action, or if such proposed action in a case would adversely affect any of its policies.” U.S. Attorney’s Manual, ¶ 4-3.140C (available at [www.usdoj.gov](http://www.usdoj.gov)).
4. Decide how to pay and, if by contract mod, how any DOJ-negotiated settlement release will fit with contract modification language.

C. Dispute Features.

1. Respective strength of parties’ cases, including signals from judge or neutral.
2. Will the case make good or bad law? Does the law require a resolution of the issue?
3. Stem the tide of future claims?
4. The amount in controversy: how much can you afford to lose?

5. Existence of claims outside the litigation, and willingness to resolve those in global settlement.
6. Continuing relationship with the contractor.
7. Interests of third parties, such as subcontractors, trustees in bankruptcy, Department of Justice.

D. Fiscal Law/Funding Considerations.

1. Ascertain availability of funds and types of funds.
2. Be aware of rules for obligation of funds for contracts.
3. Understand availability of judgment fund and repayment rules.

E. Timing.

1. Advantages of Early Settlement (government has not expended a lot of time or money; the contractor may not be entrenched in its position; the contractor may not know full strength of its claim; the contractor may be willing to trade money for time).
2. Advantages of Late Settlement (more knowledge about the issues).

F. Ensuring Negotiation Sticks On Your Side.

1. Identify the agency players whose buy-in is necessary or appropriate, consider their views, and sell the position to them.
2. Coordinate with DOJ, if necessary.
3. Include those whose helpfulness (knowledge of the facts or technical issues), style, and relationships will increase the effectiveness of the negotiations.

4. Exclude those whose presence will not help, but, adopt procedures, such as periodic briefings, if their buy-in is necessary.
5. Settle for amounts commensurate with your risk.
  - a. “Tipping”: does 51% risk justify 90% award?
6. For final authorization, prepare principled analysis for merit and quantum (allocate \$\$ to issues and discount them for value of merits position).

G. Ensuring Negotiation Sticks On Their Side.

1. Maintain a record of negotiations - it is best to make and withdraw offers in writing. Date and time your offers, rejections, and acceptances.
2. Bargain in good faith.
3. Ask for support of dollar positions.
4. Make approval requirements clear to the other side.
5. Written agreements.
  - a. The settlement agreement should be drafted as a document separate from a contract modification. See Appendix A for a sample.
  - b. FAR 43.301 requires use of the Standard Form (SF) 30 for supplemental agreements. Incorporate the settlement agreement by reference and attach to a (SF) 30 to evidence the bilateral modification to the contract.
6. Oral agreements.

- a. Courts and boards have found binding settlement agreements where the parties have yet to reduce them to writing. Essex Electro Engineers, Inc., ASBCA Nos. 30118, 30119, 88-1 BCA ¶ 20,440 (relying on price negotiation memoranda to find an agreement which Navy later refused to fund based on perceived bad deal); Kurz & Root Company, Inc., ASBCA No. 17146, 74-1 BCA ¶ 10,543; Brookfield Construction Co. v. United States, 661 F.2d 159 (Ct. Cl. 1981)(in dicta, citing with approval the decision in Kurz).
- b. "The issue here is not whether a written executed settlement agreement memorialized on a Standard Form 30 would be 'better.' The issue is whether, looking at the totality of the discussions between the parties and the written record, can we determine whether a bargain was struck, and if so, what it was?" Essex Electro Engineers, Inc., *supra*.
- c. Defendant refuses to sign a stipulation for entry of judgment, the normal procedure for having judgments entered on the basis of settlement agreements. However, defendant's refusal to perform this ministerial act in no way affects the validity and binding effect of the settlement agreement. In the present cases, it is apparent that the parties reached a binding settlement agreement and "it is immaterial that the parties may have contemplated a later, more formal instrument. Cheyenne-Arapaho Tribes of Indians v. United States, 229 Ct. Cl. 434 (1982).
- d. An "agreement in principle" does not signify a contractual relationship. John C. Grimberg Company, Inc. and The Hartford Fidelity & Bonding Company, ASBCA No. 51693, 99-2 BCA ¶ 30,572 (denying motion for summary judgment where parties had only reached "agreement in principle to settle the case").

### III. DRAFTING A SETTLEMENT AGREEMENT.

#### A. Goals.

1. Resolve the dispute – usually by modifying the underlying contract.
    - a. This is your second bite at the apple. Thus, be sure to clearly address all issues in dispute.
  2. Establish mechanisms to address foreseeable problems, such as payment of interest if payment is made after a certain date. Decker & Co. GmbH, ASBCA Nos. 44932, 44933, 94-2 BCA ¶ 26,629 (denying bad faith allegation where government paid contractor four months after execution of agreement which provided for interest on late payment); Essex Electro Engineers, Inc., ASBCA No. 46047, 94-1 BCA ¶ 26,457 (contractor entitled to interest where agreement did not provide for contingency of delay in issuing contract modification on SF 30).
    - a. Draft the agreement clearly to avoid interpretation problems. Beware of using form agreements--have a purpose for using every clause in the agreement.
- B. Elements of a Settlement Agreement.
1. Title.
  2. Recitations.
    - a. The "Whereas" clauses. Can help illuminate the purpose of the release and prevent a foray into parol evidence.
    - b. These clauses provide the factual basis for the settlement agreement. The parties should recite relevant facts, such as the contract number and the docketing number, such as "ASBCA No. 12345."
    - c. Specify that this is a compromise (will help sell it later as an accord and satisfaction, which requires that something other than that which is due is being offered – also establishes that there is consideration).



- d. The recitations can help a judge resolve a dispute concerning the settlement agreement.
- 3. Payment clause.
  - a. Spell out how much the government will pay the contractor, to include any non-monetary relief.
  - b. Specify when the contractor will be paid (e.g., within 30 days after receipt of a proper invoice following execution of the contract modification which incorporates this settlement agreement).
  - c. Specify the remedy should the payment be late (e.g., interest shall be paid at the statutory rate applicable to the Prompt Payment Act).
  - d. Payments under a settlement agreement can have tax consequences to the contractor. Talley Industries, Inc. v. Commissioner of Internal Revenue, No. 27826-92, 1999 Tax Ct. Memo LEXIS 237 (T.C. June 18, 1999) (disallowing income tax deduction of a \$2.5 million payment made in settlement of civil and criminal false claims where agreement silent as to penalty or compensation for losses). Specify that the contractor is responsible for any taxes due.
- 4. Dismissal with prejudice. The party filing the appeal should agree to request dismissal of the case with prejudice.
- 5. General Release. See Section IV, below. Specify that the agreement resolves “all” claims arising out of the disputed matter, include those not arising out of the contract itself, i.e., court costs, attorney fees and expenses, and interest attributable to any litigation.
- 6. Integration Clause.

- a. Integrated Agreement Defined. A writing or writings constituting a final expression of one or more terms of an agreement. Restatement (Second) of Contracts, § 209.
- b. Form. No particular form is required. A contract may include an explicit declaration that there are no other agreements between the parties. Id.
- c. Parol evidence rule. Renders inoperative any prior or contemporaneous written and oral agreements that contradict or are otherwise inconsistent with the terms of a supplemental agreement, provided the supplemental agreement has been adopted as a binding integrated agreement. Restatement (Second) of Contracts, § 213, comment a; Triple "A" South, ASBCA No. 35824, 90-1 BCA ¶ 22,567.
- d. A board or court may consider evidence of prior or contemporaneous agreements and negotiations to determine whether a writing is an integrated agreement. Triple "A" South, supra. See also D&R Machine Company, ASBCA No. 50730, 98-1 BCA ¶ 29,462 (government not entitled to summary judgment where no showing settlement agreement was an integrated agreement); United Technologies Corporation, Pratt & Whitney Group, Government Engines & Space Propulsion, ASBCA Nos. 46880, 46881, 97-1 BCA ¶ 28,818.

7. Miscellaneous Representations.

- a. No Admission of Liability. Include a clause stating that the settlement agreement does not constitute an admission of liability by the government and that it cannot be used in any other proceeding other than to enforce its terms.
- b. Contractor certifies that no other actions concerning the disputed matter are pending, that it will sign all necessary documents to effect the payment, and to dismiss any pending actions.

- c. Provide a penalty for violations of these representations.  
E.g., return of the payment with CDA interest.

8. Signatures.

#### IV. RELEASE CLAUSE – GENERAL PRINCIPLES.

A. Definition. A promise by one party that it will not hold the other party accountable for **specified** causes of action. This is the most important clause for the government. It is the principal consideration supplied by the contractor in a settlement agreement. Without it, there is no reason to settle.

B. FAR 43.205. In consideration of the modification(s) agreed to herein as complete equitable adjustment for the Contractor's \_\_\_\_\_ (describe) "proposal(s) for adjustment," the Contractor hereby releases the Government from any and all liability under this contract for further equitable adjustments attributable to such facts or circumstances giving rise to the "proposals for adjustment" (except for \_\_\_\_\_).

- 1. Given the FAR's description of the clause's purpose (to avoid subsequent controversies that might result from an equitable adjustment), courts are likely to interpret this as a final release PROVIDED THAT the descriptions are unambiguous. See William Cramp & Sons Ship & Engine Bldg. Co., 206 U.S. 118 (1907) (construing release in light of contract clause providing for final release).

C. Parts.

- 1. The scope or breadth statement. Generally, may be characterized as general (broad) or special (limited). E.g., "all claims arising out of the contract," "all claims related to . . .," "all claims presented in the contractor's letter of June 24." Often expressed in terms of causes and effects.

- a. See William Cramp & Sons Ship & Engine Bldg. Co., 206 U.S. 118 (1907) (construing language as “general release,” defined as a “purpose to make an ending of every matter arising under or by virtue of the contract”); Advanced Engineering & Planning Corporation, Inc., ASBCA Nos. 53366, 54044, 2003 ASBCA LEXIS 13 (language was that of “special,” not “general” release, not of the type required by the Final Payment Clause, 52-232-5).
- b. Linking technique - Scope may be expressed by reference to another document.
- c. Causes - E.g., “arising out of all facts and circumstances occurring prior to . . . ,” “arising out of the change in drawings.”
  - (1) Linking Example: See General Dynamics Land Systems, Inc., ASBCA No. 4462, 96-1 BCA ¶ 28,099 (release regarding allegations “contained in DCAA audit report number 3281 . . .”).
  - (2) The weakness here is usually the ambiguity of the linked document or the description of the scope. Say it correctly once and then have the discipline to stop writing. Metric Constructors, Inc. v. United States, 314 F.2d 578, 582 (Fed. Cir. 2002) (release of “all claims whatsoever arising out of or relating to the subcontract or purchase order [fine, if stopped there], to the extent of payments actually received”)(“The meaning of that qualifying language is admittedly somewhat unclear, but if the release were intended to be unqualified, there would be no need for any such language of qualification. The government's proffered explanation for that language -- that it is intended to protect against effecting a release until payment is received -- is not persuasive”).
  - (3) One way to avoid that is to provide hard date cutoff. E.g., “all events occurring before . . . “ But, ambiguity can cripple even that technique.

- (4) E.g., “all delays occurring before . . .”  
Compensable delays are those that extend the project end date and, therefore, arguably, occur at the end of the project. Although this formulation would be justified on the ground that it refers to critical path delays (i.e., those occurring during the project, but extend the end of the project), that justification will require enormous effort to defend, as lawyers fight about acceleration, non critical-path delays, supervening causes of delay, what was the critical path, etc.
  - (5) E.g., “all claims occurring before . . .” Contractor will argue that claim did not accrue until after the cutoff date, even though some of the events giving rise to the claim occurred before the date.
- d. Effects (costs) - (General, Conditional, or Limited). E.g., “all costs and time,” “all time and money,” “all costs,” “all direct costs,” “all costs relating to the changed work.”
- (1) The weakness here is usually the use of terminology that has more than one meaning. Thus, be sure to define your terminology. Especially terms like “direct costs,” “indirect costs” “disruption,” “overhead” (direct and indirect), “general conditions,” and “impact.” These are terms that are used by accounting, construction, and claims professionals and are not always used to mean the same thing. See, e.g., Reliance Ins. Co. v. United States, 931 F.2d 863 (Fed. Cir. 1991); Linda Newman v. United States, slip op. No. 00-317C (Fed. Cl., November 13, 2000) (VA regulation contained limit on extended overhead, plaintiff argued that release exception for impacts excepted it from that limit) (citing Jack Cooper Constr. Co., 1984 WL 13731, 1984 VABCA Lexis 61 (distinguishing overhead and impact costs); Hensel Phelps Construction Co., v. General Services Administration, GSBICA Nos. 14744, 14877, 2001-1 B.C.A. ¶ 31,249 (adjustment for “direct” costs did not foreclose claim for acceleration and impact).

2. The reservation – none, specific, broad.

3. The paying party's goal is to get a GENERAL release with NO reservations. Anything less should affect the *quid pro quo*, and requires extra attention in order to determine exactly what the paying party IS getting.

D. Effect.

1. No matter how meritorious, a claim not excepted by a contractor from the operation of a general release may not be judicially entertained later unless the release be found invalid or waived by subsequent conduct of the Government. Adler Constr. Co. v. United States, 191 Ct. Cl. 607, 611, 423 F.2d 1362 (1970).
2. A general release will bar claims existing prior to the date of the release when the maker of the release had knowledge of the released claims and failed to reserve its rights. Johnson, Drake & Piper, Inc. v. United States, 531 F.2d 1037 (Ct. Cl. 1976); General Dynamics Land Systems, Inc., ASBCA No. 44622, 96-1 BCA ¶ 28,099.
3. A release for lawful consideration is binding though the contractor received only what was otherwise due him (prevents the "I was not given what the law requires (e.g., "equitable" adjustment) cases). United States v. William Cramp & Sons Co., 206 U.S. 18 (1907); Inland Empire Builders, Inc. v. United States, 191 Ct. Cl. 742, 751 424 F.2d 1370, 1375 (1970). See Neal and Company, Inc., DOT BCA No. 2084, 90-2 BCA ¶ 22,789 (contractor that signed general release barred from seeking CDA interest on proposal settlement even where clear CDA interest was not included).
4. But, see below for the various pitfalls that prevent the application of this rule.
5. Equal Access to Justice Act (EAJA) fees.
  - a. When a party releases claims arising under or relating to a contract, such a release ordinarily excludes EAJA applications, which arise under 5 U.S.C. § 504.

- b. An EAJA claim arises out of an ASBCA appeal. Therefore, a release of claims arising under or related to an ASBCA appeal will bar an EAJA claim. Application Under the Equal Access to Justice Act of Hexatron Engineering Co., Inc., ASBCA No. 48674, 97-2 BCA ¶ 29,324.

E. Distinguish from Accord and Satisfaction.

1. Discharge of a claim by accord and satisfaction "means a discharge by the rendering of some performance different from that which was claimed as due and the acceptance of such substituted performance by the claimant as full satisfaction of his claim." 6 Corbin, Contracts, § 1276 (1962) (emphasis added). Brock & Blevins Co. v. US, 343 F.2d 95 (Ct. Cl. 1965); Coastal Indus. v. United States, 32 Fed. Cl. 368 (1994) (record contains no indication that parties were aware of any claim arising in favor of plaintiff or that the modifications were executed in settlement of a claim).
  - a. The essential elements of accord and satisfaction are proper subject matter, competent parties, meeting of the minds of the parties, and consideration. Mil-Spec Contractors, Inc. v. United States, 835 F.2d 865 (Fed. Cir. 1987).
  - b. The contract modification or agreement is the accord, the subsequent performance is the satisfaction. Safeco Credit v. U.S., 44 Fed. Cl. 406 (1999).
2. Agreement should state that the agreement is an accord and satisfaction.
3. Agreement should contain a release clause, which simplifies the matter.

- a. “A release is not an absolute prerequisite to finding that a bilateral modification constituted an accord, but a release connotes immediacy, finality and an intent to substitute new obligations in place of those originally set forth in the contract.” Ryco Constr., Inc. v. United States, 2002 U.S. Claims LEXIS 368 (Fed. Cl. 2001)(internal quotes omitted, quoting Edward H. Foran, 2001 ASBCA Lexis 37 at \*35, 2001-1 B.C.A. 31,323).

F. Distinguish From The Defense of Waiver.

1. Waiver requires proof that delay in asserting claim prejudiced the government. E.g., Foster Wheeler Corp. v. United States, 206 Ct. Cl. 533, 513 F.2d 588 (1975); Ling-Temco-Vought, Inc. v. United States, 201 Ct. Cl. 135, 475 F.2d 630 (1973).

## V. THE FINAL PAYMENT CLAUSE.

- A. Final Payment Clause: 48 CFR 52.232-5 (h) Final payment. The Government shall pay the amount due the Contractor under this contract after --
  - (1) Completion and acceptance of all work;
  - (2) Presentation of a properly executed voucher; and
  - (3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. . . .
- B. General Rule: final payment to the contractor by the government bars consideration of any claims for damages under the contract which are submitted subsequent to the final. Mingus Constructors, Inc. v. United States, 812 F.2d 1387, 1391 (Fed. Cir. 1987); Jo-Bar Manufacturing Corp. v. United States, 210 Ct. Cl. 149, 535 F.2d 62 (1976).



1. A contractor's exception to a release is construed narrowly because the purpose of a release is to end the matter in controversy. Mingus Constructors, Inc., v. United States, 812 F.2d 1387 (Fed. Cir. 1987)(contractor failed to except a claim when it stated its intent to file a claim in undetermined amounts); S&J Contractors, VABCA No. 3743, 93-3 BCA ¶ 26,022 (release and referenced letter mentioning breach of contract, liquidated damages, and business losses did not put government on notice of any specific claims).
2. In cases where the last payment occurs without the execution of a release, it may be necessary to look to the surrounding facts and circumstances to determine whether the final payment which bars subsequent claims has taken place. Gulf & Western Industries, Inc. v. United States, 6 Cl. Ct. 742 (1984)(court looked to the totality of the facts and circumstances to determine when final payment had occurred where the contractor had executed no release relative to the portion of the contract at issue).

C. Distinguish mid-performance releases.

1. Modifications made in the context of on-going contract administration, **UNLESS A BROADER SCOPE IS MADE EXPLICIT**, relate to changed work only.” Commercial Contractors v. U.S., 26 Cl. Ct. 666 (1992).
2. Advanced Engineering & Planning Corporation, Inc., ASBCA Nos. 53366, 54044, 2003 ASBCA LEXIS 13 (language was that of “special,” not “general” release, not of the type required by the Final Payment Clause, 52-232-5).
3. When the final payment clause does not apply, there is no obligation to expressly reserve a claim for costs in a settlement agreement. Laka Tool & Stamping Co. v. United States, 226 Ct. Cl. 83, 639 F.2d 738 (1980).

## **VI. “KNOWN AND UNKNOWN” RELEASES.**

- A. It is questionable whether a release that purports to include "unknown" claims is an effective bar to a future claim. Inland Empire Builders, Inc., ASBCA No. 8077, 67-1 BCA ¶ 6162 ("However conclusive the language of the release may appear to be, it cannot be read to comprehend claims wholly unknown to the parties at the time of execution"). This does not refer to Final Payment Clause cases.
- B. Distinguish argument: “I have received ‘claims,’ but, when I signed release, these were not claims. At least, I did not know enough about them to except them.”
  - 1. The test is not the state of plaintiff's knowledge, but the availability of information which, properly digested, could reasonably be expected to acquaint plaintiff with the existence of a reimbursable cost. United States Rubber Co. v. United States, 142 Ct. Cl. 42, 160 F. Supp. 492 (1958) (release was for amounts owed to third parties under the Contract, but which are not now known to the Contractor).
  - 2. Johnson, Drake & Piper, Inc. v. United States, 209 Ct. Cl. 313, 330 (1976) (no excuse for not seeking reservation where release was for claims contractor “has” and contractor alleged it knew the facts underlying its present claims but not their full impact or that they would become claims).
  - 3. Claim that contractor lacked sufficient information at the time of the release to frame proper exceptions did not excuse failure to cover present claims in general terms. Adler Constr. Co. v. United States, 191 Ct. Cl. 607, 612 423 F.2d 1362 (1970).

## **VII. INTERPRETATION.**

- A. The interpretation of a settlement agreement, i.e., a contract, is a question of law. Augustine Medical, Inc. v. Progressive Dynamics, Inc., 194 F.3d 1367 (Fed. Cir. 1999).

1. The court's examination begins with the plain language used by the parties in contracting. Textron Defense Sys. v. Widnall, 143 F.3d 1465, 1468 (Fed. Cir. 1998). When the contract language is unambiguous, the court's inquiry is at an end, and the plain language of the contract is controlling. Id. at 1469.
  2. A board or court will focus on the intent of the parties at the time the release is executed, and intent will be sought from the settlement agreement. Futuronics Corporation, ASBCA No. 29324, 85-2 BCA ¶ 18,137.
  3. Thus, tie the recitations to the release language to provide support for a broad release. See Gould, Inc. v. United States, 935 F.2d 1271, 935 F.2d 1271 (Fed. Cir. 1991) (consulting whereas clause to define scope of claim and target of release)
  4. As we have observed, "in the realm of Government contracts, absent mistake or duress not present here, few things signify knowing and intentional conduct more than does the execution of a bilateral modification." USD Technologies, Inc., ASBCA No. 31305, 87-2 BCA P 19,680 at 99,620.
- B. Parol Evidence. Generally, subject to same rules as any agreement. Thus, parol evidence not warranted if intent clear. Craddock v. United States, 230 Ct. Cl. 991, 994 (1982); accord T.L. Roof & Assocs. Constr. Co. v. United States, 28 Fed. Cl. 572.
- C. Yet, often, courts are reluctant to extinguish a claim when confronted with an assertion that the release was not intended to extinguish it. Perhaps, that is because, when a contract has been changed, the contractor is entitled to an equitable adjustment as a matter of law. In addition, pitfalls in drafting releases are so abundant, that it is not as difficult to escape from releases as it would seem. NRM Corp. v. Hercules, Inc., 758 F.2d 676 (D.C. Cir. 1985) ("Absent some express reservation at or before the moment of actually entering into a modification agreement, the party seeking to assert a subsequent claim for delay damages carries a heavy burden. Yet even in this circumstance courts construing government contracts have consistently considered extrinsic evidence in their efforts to determine whether the parties intended that the modification agreement incorporate impact costs").
1. Examples.

- a. Laka Tool & Stamping Co. v. United States, 226 Ct. Cl. 83, 639 F.2d 738 (1980). HELD: Agreement stating that "[t]he agreement will in no way affect contract price or delivery schedule" does not bar the present claim because "there is no evidence the parties meant it to bar this claim."
  - b. Cyr v. U.S., 37 Fed. Cl. 153 (1992) and Commercial Contractors v. U.S., 25 Ct. Cl. 666 (1992) (all circumstances surrounding the negotiations held prior to the execution of the modifications need to be examined).
  - c. Chantilly Construction Corporation ASBCA No. 24138 81-1 B.C.A. ¶ 14,863 (modification agreement stated that it "constitute[d] a full and complete price adjustment" but board permitted contractor's claim, reasoning: "We are not persuaded that the quoted language recited in a record silent as to what respondent intended when it employed the language can have the meaning respondent now urges upon us. The language simply states that the price agreed to constitutes a full and complete price adjustment for all work required by the modification. On its face, therefore, the modification covers only the additional work recited in the modification itself. To conclude that it also encompasses the claim herein asserted would require a showing that both parties understood the language to accomplish that purpose. Such evidence is completely lacking in the record.").
2. Contemporaneous Interpretation. Courts may refuse to bar a claim based upon the defense of accord and satisfaction where the parties continue to consider the claim after execution of a release, because it evinces the parties' interpretation that the claim is not barred. Community Heating & Plumbing Co. v. Kelso, 987 F.2d 1575 (Fed. Cir. 1993); accord Woerner Engineering, Inc., ASBCA No. 52248, 2003 ASBCA LEXIS 18.

## **VIII. BUSTING RELEASES.**

- A. Problem Releases Are No Different Than Problem Contract Provisions.

- B. Avoidance - Affirmative Contract Defenses. An agreement that is complete on its face and reflects the contractor's unqualified acceptance and agreement with its terms will not be disturbed in the absence of fraud or other special circumstances such as mutual mistake, misrepresentation, or duress. J.G. Watts Contrs. Co. v. United States, 161 Ct. Cl. 801 (1963) ; Klondike Enterprises, Inc., ASBCA 46572, 95-1 BCA ¶ 27,564.
1. A board may order production of documents concerning the negotiation or drafting of a settlement agreement, notwithstanding the existence of an attorney-client privilege, where a party is alleging unilateral or mutual mistake of fact or in integration of the settlement agreement. B.G.W. Limited Partnership v. General Services Administration, GSBCA 10501, 93-1 BCA ¶ 25,244.
  2. Mutual Mistake. Dairyland Power Coop. v. United States, 16 F.3d 1197 (1994).
  3. Duress, Lack of Authority, Lack of Consideration. Mil-Spec Contractors, Inc. v. United States, 835 F.2d 865 (Fed. Cir. 1987). M.G. Technology Corporation, ASBCA No. 35249, 90-1 BCA ¶ 22,575 (no duress where contractor agreed to default termination remaining in effect in return for award of reprocurement contract to its subcontractor).
  4. Lack of consideration – gratuitous releases. Inland Empire Builders, Inc. v. United States, 191 Ct. Cl. 742, 424 F.2d 1370 (1970) (release was required by underlying contract).
- C. Merits-Based Release Defenses.
1. Scope - Ambiguity Type I: “You Released The Effects of What?” (Circular or Vague References)
    - a. The contractor hereby accepts the foregoing adjustment as a final and complete equitable adjustment in full accord and satisfaction of all past, present, and future liability originating under any clause in the contract by reason of the facts and circumstances giving rise to this **modification**.

- b. If claim was for additional material costs to reinforce wall, new claim for delay? If claim was for new piece of construction and its construction is later delayed? If “facts” also require rerouting of wire or otherwise complicate other tasks?
2. Scope - Ambiguity Type II: “You Released What Effects/Costs?”
  - a. Ambiguous Terminology. Distinguish cost types (e.g., overhead) from cost consequences (e.g., disruption costs).
3. Most elusive, most sought after release buster: “Impact” Claims.
  - a. “It is further understood and agreed that this adjustment constitutes compensation in full on behalf of the contractor and its subcontractors and suppliers for all costs and markup directly or indirectly attributable to the change ordered, for all delays related thereto, and for performance of the change within the time frame stated.” Held: does not release impact costs. Commercial Contractors v. U.S., 26 Cl. Ct. 666 (1992).
  - b. "All claims arising out of this modification and any other modifications or change orders indicated above" did not release impact costs. Advanced Engineering & Planning Corporation, Inc., ASBCA Nos. 53366, 54044, 2003 ASBCA LEXIS 13.
  - c. Hercules Construction Corporation, ASBCA No. 51296, 99-2 B.C.A. ¶ 30,406 (summary judgment denied where parties’ negotiators disputed whether modification covered cumulative delay and inefficiency claim. Release read: “this adjustment constitutes payment in full for direct costs on behalf of the contractor and his subcontractors and suppliers for labor, materials, home office overhead and profit attributed to the change order. This excludes any payment for extended field office overhead and supervision.”

- d. “Acceptance of this modification by the contractor constitutes an accord and satisfaction and represents payment in full for both time and money and for all any and all costs, impact effect, and for delays and disruptions arising out of, or incidental to, the work as herein revised.” HELD: disruption costs released (after examination of parol evidence). R.P. Richards Constr. Co. v. United States, 51 Fed. Cl. 116 (2001) (emphasis added).
- e. “All claims for delays and disruptions resulting from, caused by, or incident to such modifications or change orders.” Held: “such a broad release would release not only the changed work required by the change orders but extend to all delays or ripple effects arising from the change.” Advanced Engineering & Planning Corporation, Inc., ASBCA Nos. 53366, 54044, 2003 ASBCA LEXIS 13 (internal quotes omitted) (citing Eslin Company, ASBCA No. 34029, 87-2 BCA ¶ 19,854 at 100,455; Southwest Marine, Inc., ASBCA Nos. 34058 *et al.*, 91-1 BCA P 23,323 at 116,982-983 (rejecting contractor's argument that releases looked only to the past and did not cover impacts not discernible on the dates they were executed.)”
4. Particularly difficult to foreclose are “cumulative disruption claims.” Cumulative disruption, variously defined, often is used to refer to the synergistic disruption caused by the sheer volume of changes. Hercules Construction Corporation, ASBCA No. 51296, 99-2 B.C.A. ¶ 30,406. KTOR ARGUMENT: “How could I know, when I signed Release #1 (Change #1), that I would subsequently receive Changes 1-5, and that the sheer volume of work added would disrupt my work?” RESPONSE: Price it in Change #5, which must consider the work environment then existing, and clearly release it. If it can’t be priced, try an NTE adjustment.

#### D. Miscellaneous Defenses.

1. “I didn’t know I had a claim.” Alliance Oil & Ref. Co. V. United States, 856 F.2d 201, (Fed. Cir. 1988) (“it is well settled that unilateral ignorance of one's legal rights does not relieve one of the consequences of executing a release, provided that the facts bearing on the existence of the injury are known when the release is executed”). See discussion in Section VI.B., above of “Unknown” claims.

2. Parol Evidence - "I know I said it, but I didn't mean it."
  - a. Release was "mere boilerplate . . . [we] never talked about [the] delays." Advanced Engineering & Planning Corporation, Inc., ASBCA Nos. 53366, 54044, 2003 ASBCA LEXIS 13
3. Waiver.
  - a. Adler Constr. Co. v. United States, 191 Ct. Cl. 607, 423 F.2d 1362 (1970) (acceptance of subsequent inconsistent waiver demonstrated that release was not intended); Johnson, Drake & Piper, Inc. v. United States, 209 Ct. Cl. 313 (allegation dismissed on facts).
  - b. H. L. C. & Associates Constr. Co. v. United States, 176 Ct. Cl. 285, 367 F.2d 586 (1966) (Where government accepted "blunderbuss" exception so broad that everything was excepted, yet delivered final payment anyway, despite its right to refuse to do so, government waived the right and had only what it required: a meaningless release).

## **IX. CONCLUSION.**



## APPENDIX A

### **GOVERNMENT CONTRACT AND FISCAL LAW WEBSITES AND ELECTRONIC NEWSLETTERS**

The first table below contains hypertext links to websites that practitioners in the government contract and fiscal law fields utilize most often. If you are viewing this document in an electronic format, you can click on the web address in the second column and open the requested website. Particularly useful websites are in **bold** type. It may be easier to access the AF secure sites through WebFLITE.

The second table on the final page below contains links to websites that allow you to subscribe to various electronic newsletters of interest to practitioners. Once you have joined one of these news lists, the list administrator will automatically forward electronic news announcements to your email address. These electronic newsletters are convenient methods of keeping informed about recent and/or upcoming changes in the field of law.

Website Name	Web Address
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#### A

Acquisition Network (AcqNet)	<a href="http://www.arnet.gov">http://www.arnet.gov</a>
Acquisition Review Quarterly (from DAU)	<a href="http://www.dau.mil/pubs/arqtoc.asp">http://www.dau.mil/pubs/arqtoc.asp</a>
AT&L Knowledge Sharing System	<a href="http://deskbook.dau.mil/jsp/default.jsp">http://deskbook.dau.mil/jsp/default.jsp</a>
Acquisition Streamlining and Standardization Information System (ASSIST)	<a href="http://dodssp.daps.mil/assist.htm">http://dodssp.daps.mil/assist.htm</a>
ACQWeb (Office of Undersecretary of Defense for Acquisition Logistics & Technology)	<a href="http://www.acq.osd.mil">http://www.acq.osd.mil</a>
Agency for International Development	<a href="http://www.usaid.gov/">http://www.usaid.gov/</a>
Air Force Acquisition	<a href="http://www.safaq.hq.af.mil/">http://www.safaq.hq.af.mil/</a>
Air Force Acquisition Training Office	<a href="http://www.safaq.hq.af.mil/acq_workf/training/">http://www.safaq.hq.af.mil/acq_workf/training/</a>
Air Force Alternative Dispute Resolution (ADR) Program	<a href="http://www.adr.af.mil">http://www.adr.af.mil</a>
Air Force Audit Agency	<a href="https://www.aaaa.hq.af.mil/domainck/index.shtml">https://www.aaaa.hq.af.mil/domainck/index.shtml</a>
<b>Air Force Contracting</b>	<a href="https://www.safaq.hq.af.mil/contracting/restricted/index.cfm">https://www.safaq.hq.af.mil/contracting/restricted/index.cfm</a>
<b>Air Force Contracting Toolkit</b>	<a href="http://www.safaq.hq.af.mil/contracting/toolkit/">http://www.safaq.hq.af.mil/contracting/toolkit/</a>
<b>Air Force FAR Site</b>	<a href="http://farsite.hill.af.mil">http://farsite.hill.af.mil</a>
Air Force FAR Supplement	<a href="http://farsite.hill.af.mil/vfaffar1.htm">http://farsite.hill.af.mil/vfaffar1.htm</a>

Website Name	Web Address
Air Force Materiel Command FAR Supplement	<a href="http://farsite.hill.af.mil/vfafmc1.htm">http://farsite.hill.af.mil/vfafmc1.htm</a>
Air Force Materiel Command Homepage	<a href="https://www.afmc-mil.wpafb.af.mil/index.htm">https://www.afmc-mil.wpafb.af.mil/index.htm</a>
<b>Air Force Materiel Command Contracting Toolkit</b>	<b><a href="https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/PK/pkop1.htm">https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/PK/pkop1.htm</a></b>
Air Force Financial Management & Comptroller	<a href="http://www.saffm.hq.af.mil/">http://www.saffm.hq.af.mil/</a>
Air Force General Counsel	<a href="http://www.safgc.hq.af.mil/">http://www.safgc.hq.af.mil/</a>
Air Force Home Page	<a href="http://www.af.mil/">http://www.af.mil/</a>
Air Force Logistics Management Agency	<a href="https://www.aflma.hq.af.mil/">https://www.aflma.hq.af.mil/</a>
Air Force Materiel Command	<a href="https://www.afmc-mil.wpafb.af.mil/">https://www.afmc-mil.wpafb.af.mil/</a>
Air Force Materiel Command Staff Judge Advocate	<a href="https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/JA/">https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/JA/</a>
<b>Air Force Publications</b>	<b><a href="http://www.e-publishing.af.mil/">http://www.e-publishing.af.mil/</a></b>
American Bar Administration (ABA) Legal Technology Resource Center	<a href="http://www.lawtechnology.org/lawlink/home.html">http://www.lawtechnology.org/lawlink/home.html</a>
ABA Network	<a href="http://www.abanet.org/">http://www.abanet.org/</a>
ABA Public Contract Law Journal (PCLJ)	<a href="http://www.law.gwu.edu/pclj/">http://www.law.gwu.edu/pclj/</a>
<b>ABA Public Contract Law Section</b>	<b><a href="http://www.abanet.org/contract/">http://www.abanet.org/contract/</a></b>
ABA Public Contract Law Section Webpage on Agency Level Bid Protests	<a href="http://www.abanet.org/contract/federal/bidpro/agen_bid.html">http://www.abanet.org/contract/federal/bidpro/agen_bid.html</a>
Armed Services Board of Contract Appeals (ASBCA)	<a href="http://www.law.gwu.edu/asbca">http://www.law.gwu.edu/asbca</a>
Army Acquisition (ASA(ALT))	<a href="https://webportal.saalt.army.mil/">https://webportal.saalt.army.mil/</a>
Army Acquisition Corps	<a href="http://asc.rdaisa.army.mil/default.cfm">http://asc.rdaisa.army.mil/default.cfm</a>
Army Audit Agency	<a href="http://www.hqda.army.mil/AAAWEB/">http://www.hqda.army.mil/AAAWEB/</a>
Army Contracting Agency	<a href="http://aca.saalt.army.mil/">http://aca.saalt.army.mil/</a>
Army Corps of Engineers Home Page	<a href="http://www.usace.army.mil/">http://www.usace.army.mil/</a>
Army Corps of Engineers Legal Services	<a href="http://www.hq.usace.army.mil/cecc/maincc.htm">http://www.hq.usace.army.mil/cecc/maincc.htm</a>
Army Financial Management & Comptroller	<a href="http://www.asafm.army.mil/">http://www.asafm.army.mil/</a>
Army General Counsel	<a href="http://www.hqda.army.mil/ogc/">http://www.hqda.army.mil/ogc/</a>
Army Home Page	<a href="http://www.army.mil/">http://www.army.mil/</a>
Army Materiel Command (AMC)	<a href="http://www.amc.army.mil/">http://www.amc.army.mil/</a>
<b>AMC Contracting Policy Vault</b>	<b><a href="http://www.amc.army.mil/amc/rda/pvault.html">http://www.amc.army.mil/amc/rda/pvault.html</a></b>
AMC Counsel	<a href="http://www.amc.army.mil/amc/command_counsel/">http://www.amc.army.mil/amc/command_counsel/</a>
Army Portal	<a href="https://www.us.army.mil/portal/portal_home.jhtml">https://www.us.army.mil/portal/portal_home.jhtml</a>
Army Publications	<a href="http://www.usapa.army.mil">http://www.usapa.army.mil</a>
Army Single Face to Industry (ASFI)	<a href="https://acquisition.army.mil/asfi/">https://acquisition.army.mil/asfi/</a>

Website Name	Web Address
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## B

Bid Protests Webpage from the American Bar Administration (ABA) Public Contract Law Section	<a href="http://www.abanet.org/contract/federal/bidpro/agen_bid.html">http://www.abanet.org/contract/federal/bidpro/agen_bid.html</a>
Boards of Contract Appeals Bar Association	<a href="http://www.bcabar.org/">http://www.bcabar.org/</a>
Budget of the United States	<a href="http://www.gpoaccess.gov/usbudget/">http://www.gpoaccess.gov/usbudget/</a>

## C

Central Contractor Registration (CCR)	<a href="http://www.ccr.gov/">http://www.ccr.gov/</a>
<b>Checklist (AF Electronic Systems Command Contract Review Checklist)</b>	<a href="https://centernet.hanscom.af.mil/JA/CRG/checklist.htm">https://centernet.hanscom.af.mil/JA/CRG/checklist.htm</a>
Coast Guard Home Page	<a href="http://www.uscg.mil">http://www.uscg.mil</a>
<b>Code of Federal Regulations</b>	<a href="http://www.access.gpo.gov/nara/cfr/cfr-table-search.html">http://www.access.gpo.gov/nara/cfr/cfr-table-search.html</a>
<b>Electronic Code of Federal Regulations (eCFR)</b>	<a href="http://www.gpoaccess.gov/ecfr">http://www.gpoaccess.gov/ecfr</a>
Comptroller General Appropriation Decisions	<a href="http://www.gao.gov/decisions/appro/appro.htm">http://www.gao.gov/decisions/appro/appro.htm</a>
Comptroller General Bid Protest Decisions	<a href="http://www.gao.gov/decisions/bidpro/bidpro.htm">http://www.gao.gov/decisions/bidpro/bidpro.htm</a>
<b>Comptroller General Decisions via GPO Access</b>	<a href="http://www.gpoaccess.gov/gaodecisions/index.html">http://www.gpoaccess.gov/gaodecisions/index.html</a>
<b>Comptroller General Legal Products</b>	<a href="http://www.gao.gov/legal.htm">http://www.gao.gov/legal.htm</a>
<b>Comptroller General Principles of Federal Appropriations Law</b>	<a href="http://www.gao.gov/legal.htm">http://www.gao.gov/legal.htm</a>
Comptroller General Principles of Federal Appropriations Law Update Service (A Commercial Source)	<a href="http://www.managementconcepts.com/publications/financial/ALMGAO.asp">http://www.managementconcepts.com/publications/financial/ALMGAO.asp</a>
Congressional Bills	<a href="http://www.gpoaccess.gov/bills/index.html">http://www.gpoaccess.gov/bills/index.html</a>
Congressional Documents	<a href="http://www.gpoaccess.gov/legislative.html">http://www.gpoaccess.gov/legislative.html</a>
<b>Congressional Documents via Thomas</b>	<a href="http://thomas.loc.gov/">http://thomas.loc.gov/</a>
Congressional Record	<a href="http://www.gpoaccess.gov/crecord/index.html">http://www.gpoaccess.gov/crecord/index.html</a>
Contingency Contracting (Army AMC)	<a href="http://dasapp.saalt.army.mil/Contingency%20Contracting%20Site/ck/ck-prime.htm">http://dasapp.saalt.army.mil/Contingency%20Contracting%20Site/ck/ck-prime.htm</a>
Contract Pricing Reference Guides	<a href="http://www.acq.osd.mil/dp/cpf/pgv1_0/pgchindex.html">http://www.acq.osd.mil/dp/cpf/pgv1_0/pgchindex.html</a>

Website Name	Web Address
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<b>Contract Review Checklist (AF Electronic Systems Command)</b>	<a href="https://centernet.hanscom.af.mil/JA/CRG/chec klist.htm">https://centernet.hanscom.af.mil/JA/CRG/chec klist.htm</a>
Cornell University Law School (extensive list of links to legal research sites)	<a href="http://www.law.cornell.edu">www.law.cornell.edu</a>
Cost Accounting Standards (CAS – found in the Appendix to the FAR)	<a href="http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/f ardfars/far/farapndx1.htm">http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/f ardfars/far/farapndx1.htm</a>
Cost Accounting Standards Board (CASB)	<a href="http://www.whitehouse.gov/omb/procurement/cas b.html">http://www.whitehouse.gov/omb/procurement/cas b.html</a>
Court of Appeals for the Federal Circuit (CAFC)	<a href="http://www.fedcir.gov/">http://www.fedcir.gov/</a>
Court of Federal Claims (COFC)	<a href="http://www.uscfc.uscourts.gov/">http://www.uscfc.uscourts.gov/</a>
Iraq CPA IG	<a href="http://www.cpa-ig.org/index.html">http://www.cpa-ig.org/index.html</a>

## D

Davis Bacon Wage Determinations	<a href="http://www.gpo.gov/davisbacon/">http://www.gpo.gov/davisbacon/</a>
Debarred List (known as the Excluded Parties Listing System)	<a href="http://epls.arnet.gov">http://epls.arnet.gov</a>
<b>Defense Acquisition Guidebook</b>	<a href="http://akss.dau.mil/dag/">http://akss.dau.mil/dag/</a>
<b>Defense Acquisition Regulations Directorate (the DAR Council)</b>	<a href="http://www.acq.osd.mil/dpap/dars/index.htm">http://www.acq.osd.mil/dpap/dars/index.htm</a>
<b>Defense Acquisition University (DAU)</b>	<a href="http://www.dau.mil/">http://www.dau.mil/</a>
Defense Competitive Sourcing & Privatization	<a href="http://www.acq.osd.mil/installation/csp/">http://www.acq.osd.mil/installation/csp/</a>
Defense Comptroller	<a href="http://www.dtic.mil/comptroller/">http://www.dtic.mil/comptroller/</a>
Defense Contract Audit Agency (DCAA)	<a href="http://www.dcaa.mil/">http://www.dcaa.mil/</a>
Defense Contract Management Agency (DCMA)	<a href="http://www.dcma.mil/">http://www.dcma.mil/</a>
Defense Procurement and Acquisition Policy (DPAP) Electronic Business	<a href="http://www.acq.osd.mil/dpap/ebiz/">http://www.acq.osd.mil/dpap/ebiz/</a>
Defense Finance and Accounting Service (DFAS)	<a href="http://www.dfas.mil/">http://www.dfas.mil/</a>
DFAS Electronic Commerce Home Page	<a href="http://www.dfas.mil/ecedi/">http://www.dfas.mil/ecedi/</a>

Website Name	Web Address
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Defense Logistics Agency (DLA) Electronic Commerce Home Page	<a href="http://www.supply.dla.mil/Default.asp">http://www.supply.dla.mil/Default.asp</a>
Defense Procurement and Acquisition Policy (DPAP)	<a href="http://www.acq.osd.mil/dpap/">http://www.acq.osd.mil/dpap/</a>
Defense Standardization Program	<a href="http://dsp.dla.mil/">http://dsp.dla.mil/</a>
Defense Technical Information Center	<a href="http://www.dtic.mil">http://www.dtic.mil</a>
Department of Commerce, Office of General Counsel, Contract Law Division	<a href="http://www.ogc.doc.gov/ogc/contracts/cld/cld.html#ContractLaw">http://www.ogc.doc.gov/ogc/contracts/cld/cld.html#ContractLaw</a>
Department of Energy Acquisition Guide	<a href="http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Guide?OpenDocument">http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Guide?OpenDocument</a>
Department of Energy Acquisition Regulation	<a href="http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Regulation?OpenDocument">http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Regulation?OpenDocument</a>
Department of the Interior Acquisition Regulation	<a href="http://www.ios.doi.gov/pam/aindex.html">http://www.ios.doi.gov/pam/aindex.html</a>
Department of Justice	<a href="http://www.usdoj.gov">http://www.usdoj.gov</a>
Department of Justice Legal Opinions	<a href="http://www.usdoj.gov/olc/opinionspage.htm">http://www.usdoj.gov/olc/opinionspage.htm</a>
Department of Labor Acquisition Regulation	<a href="http://www.dol.gov/dol/allcfr/OASAM/Title_48/Part_2901/toc.htm">http://www.dol.gov/dol/allcfr/OASAM/Title_48/Part_2901/toc.htm</a>
Department of State Acquisition Regulation	<a href="http://www.statebuy.state.gov/dosar/dosartoc.htm">http://www.statebuy.state.gov/dosar/dosartoc.htm</a>
Department of Transportation Acquisition Regulation	<a href="http://www.dot.gov/ost/m60/tamtar/">http://www.dot.gov/ost/m60/tamtar/</a>
Department of Transportation Acquisition Manual	<a href="http://www.dot.gov/ost/m60/earl/tam.htm">http://www.dot.gov/ost/m60/earl/tam.htm</a>
Department of Veterans Affairs (VA)	<a href="http://www.va.gov">http://www.va.gov</a>
VA Board of Contract Appeals	<a href="http://www1.va.gov/bca/">http://www1.va.gov/bca/</a>
Directorate for Information Operations and Reports Home Page - Procurement Coding Manual/FIPS/CIN	<a href="http://web1.whs.osd.mil/diorhome.htm">http://web1.whs.osd.mil/diorhome.htm</a>
DOD Contract Pricing Reference Guide	<a href="http://www.acq.osd.mil/dp/cpf/pgv1_0/index.html">http://www.acq.osd.mil/dp/cpf/pgv1_0/index.html</a>
DOD E-Mall	<a href="https://emall.prod.dodonline.net/scripts/emLogon.asp">https://emall.prod.dodonline.net/scripts/emLogon.asp</a>
DOD Financial Management Regulations	<a href="http://www.dtic.mil/comptroller/fmr/">http://www.dtic.mil/comptroller/fmr/</a>
DOD General Counsel	<a href="http://www.defenselink.mil/dodgc/">http://www.defenselink.mil/dodgc/</a>
DOD Home Page	<a href="http://www.defenselink.mil">http://www.defenselink.mil</a>
DOD Inspector General (Audit Reports)	<a href="http://www.dodig.osd.mil">http://www.dodig.osd.mil</a>
<b>DOD Instructions and Directives</b>	<b><a href="http://www.dtic.mil/whs/directives/">http://www.dtic.mil/whs/directives/</a></b>
DOD Purchase Card Program	<a href="http://purchasecard.saalt.army.mil/default.htm">http://purchasecard.saalt.army.mil/default.htm</a>

Website Name	Web Address
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DoD Single Stock Point for Military Specifications, Standards and Related Publications	<a href="http://www.dodssp.daps.mil/">http://www.dodssp.daps.mil/</a>
DOD Standards of Conduct Office (SOCO)	<a href="http://www.defenselink.mil/dodgc/defense_ethics/">http://www.defenselink.mil/dodgc/defense_ethics/</a>

## E

ESI, International (training in government contracts)	<a href="http://www.esi-intl.com/public/contracting/governmentcontracting.asp">http://www.esi-intl.com/public/contracting/governmentcontracting.asp</a>
Excluded Parties Listing System	<a href="http://epls.arnet.gov">http://epls.arnet.gov</a>
Executive Orders	<a href="http://www.gpoaccess.gov/wcomp/index.html">http://www.gpoaccess.gov/wcomp/index.html</a>
Executive Orders (alternate site)	<a href="http://www.archives.gov/federal_register/executive_orders/disposition_tables.html">http://www.archives.gov/federal_register/executive_orders/disposition_tables.html</a>
Export Administration Regulations	<a href="http://www.gpo.gov/bis/index.html">http://www.gpo.gov/bis/index.html</a>

## F

FAR Site (Air Force)	<a href="http://farsite.hill.af.mil">http://farsite.hill.af.mil</a>
FAR – GSA Alternate Site	<a href="http://www.arnet.gov/far/">http://www.arnet.gov/far/</a>
Federal Acquisition Institute (FAI)	<a href="http://www.faionline.com/kc/login/login.asp?kc_ident=kc0001">http://www.faionline.com/kc/login/login.asp?kc_ident=kc0001</a>
Federal Business Opportunities (FedBizOpps)	<a href="http://www.fedbizopps.gov/">http://www.fedbizopps.gov/</a>
<b>Federal Legal Information Through Electronics (FLITE) (AF WebFLITE)</b>	<a href="https://aflsa.jag.af.mil/php/dlaw/dlaw.php">https://aflsa.jag.af.mil/php/dlaw/dlaw.php</a> <b>(registration required)</b>
Federal Marketplace	<a href="http://www.fedmarket.com/">http://www.fedmarket.com/</a>
Federal Prison Industries, Inc (UNICOR)	<a href="http://www.unicor.gov/">http://www.unicor.gov/</a>
Federal Procurement Data System	<a href="https://www.fpbs.gov/">https://www.fpbs.gov/</a>
Federal Publications	<a href="http://www.fedpubseminars.com/seminar/gcplist.html">http://www.fedpubseminars.com/seminar/gcplist.html</a>
<b>Federal Register via GPO Access</b>	<a href="http://www.gpoaccess.gov/fr/index.html">http://www.gpoaccess.gov/fr/index.html</a>
Federally Funded R&D Centers (FFRDC)	<a href="http://www.nsf.gov/sbe/srs/nsf99334/start.htm">http://www.nsf.gov/sbe/srs/nsf99334/start.htm</a>
<b>Financial Management Regulations</b>	<a href="http://www.dod.mil/comptroller/fmr/">http://www.dod.mil/comptroller/fmr/</a>
FindLaw	<a href="http://www.findlaw.com">http://www.findlaw.com</a>
FirstGov	<a href="http://www.firstgov.gov/">http://www.firstgov.gov/</a>

Website Name	Web Address
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## G

Government Accountability Office (GAO) Appropriation Decisions	<a href="http://www.gao.gov/decisions/appro/appro.htm">http://www.gao.gov/decisions/appro/appro.htm</a>
GAO Comptroller General Bid Protest Decisions	<a href="http://www.gao.gov/decisions/bidpro/bidpro.htm">http://www.gao.gov/decisions/bidpro/bidpro.htm</a>
<b>GAO Comptroller General Decisions via GPO Access</b>	<b><a href="http://www.gpoaccess.gov/gaodecisions/index.html">http://www.gpoaccess.gov/gaodecisions/index.html</a></b>
GAO Comptroller General Legal Products	<a href="http://www.gao.gov/legal.htm">http://www.gao.gov/legal.htm</a>
GAO Red Book Update Service (A Commercial Source)	<a href="http://www.managementconcepts.com/publications/financial/ALMGAO.asp">http://www.managementconcepts.com/publications/financial/ALMGAO.asp</a>
GAO Home Page	<a href="http://www.gao.gov">http://www.gao.gov</a>
General Services Administration (GSA) Acquisition Manual	<a href="http://www.arnet.gov/GSAM/gsam.html">http://www.arnet.gov/GSAM/gsam.html</a>
GSA Advantage	<a href="http://www.gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=8199&amp;channelId=-13827">http://www.gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=8199&amp;channelId=-13827</a>
GSA Federal Supply Service (FSS)	<a href="http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=10322&amp;contentType=GSA_BASIC">http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=10322&amp;contentType=GSA_BASIC</a>
GSA Board of Contract Appeals (GSABCA)	<a href="http://www.gsbca.gsa.gov/">http://www.gsbca.gsa.gov/</a>
GovCon (Government Contracting Industry)	<a href="http://www.govcon.com/content/homepage">http://www.govcon.com/content/homepage</a>
Government Contracts Resource Guide	<a href="http://www.law.gwu.edu/burns/research/gcrg/gcrg.htm">http://www.law.gwu.edu/burns/research/gcrg/gcrg.htm</a>
Government Online Learning Center	<a href="http://www.golearn.gov/">http://www.golearn.gov/</a>
<b>Government Printing Office (GPO) Access</b>	<b><a href="http://www.gpoaccess.gov/index.html">http://www.gpoaccess.gov/index.html</a></b>
GPO Board of Contract Appeals (GPOBCA) (As of 1 Jul 04, appeals go to VABCA)	<a href="http://www.gpo.gov/contractappeals/index.html">http://www.gpo.gov/contractappeals/index.html</a>

## J

<b>JAGCNET (Army JAG Corps Homepage)</b>	<b><a href="http://www.jagcnet.army.mil/">http://www.jagcnet.army.mil/</a></b>
<b>TJAGLCS Homepage</b>	<b><a href="http://www.jagcnet.army.mil/TJAGSA">http://www.jagcnet.army.mil/TJAGSA</a></b>
Javits-Wagner-O'Day Act (JWOD)	<a href="http://www.jwod.gov/jwod/index.html">http://www.jwod.gov/jwod/index.html</a>
Joint Electronic Library (Joint Publications)	<a href="http://www.dtic.mil/doctrine/jel/jointpub.htm">http://www.dtic.mil/doctrine/jel/jointpub.htm</a>
<b>Joint Travel Regulations (JFTR/JTR)</b>	<b><a href="http://www.dtic.mil/perdiem/trvlregs.html">http://www.dtic.mil/perdiem/trvlregs.html</a></b>

Website Name	Web Address
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## L

Library of Congress	<a href="http://lcweb.loc.gov">http://lcweb.loc.gov</a>
Logistics Joint Administrative Management Support Services (LOGJAMMS)	<a href="http://www.forscom.army.mil/aacc/LOGJAMSS/default.htm">http://www.forscom.army.mil/aacc/LOGJAMSS/default.htm</a>

## M

Marine Corps Home Page	<a href="http://www.usmc.mil">http://www.usmc.mil</a>
Marine Corps Regulations	<a href="http://www.usmc.mil/directiv.nsf/web+orders">http://www.usmc.mil/directiv.nsf/web+orders</a>
MEGALAW	<a href="http://www.megalaw.com">http://www.megalaw.com</a>
Mil Standards (DoD Single Stock Point for Military Specifications, Standards and Related Publications)	<a href="http://www.dodssp.daps.mil/">http://www.dodssp.daps.mil/</a>
MWR Home Page (Army)	<a href="http://www.ArmyMWR.com">http://www.ArmyMWR.com</a>

## N

NAF Financial (Army)	<a href="http://www.asafm.army.mil/fo/fod/naf/naf.asp">http://www.asafm.army.mil/fo/fod/naf/naf.asp</a>
National Aeronautics and Space Administration (NASA) Acquisition	<a href="http://prod.nais.nasa.gov/cgi-bin/nais/index.cgi">http://prod.nais.nasa.gov/cgi-bin/nais/index.cgi</a>
National Contract Management Association	<a href="http://www.ncmahq.org/">http://www.ncmahq.org/</a>
National Industries for the Blind (NIB)	<a href="http://www.nib.org">www.nib.org</a>
National Industries for the Severely Handicapped (NISH)	<a href="http://www.nish.org/">www.nish.org/</a>
National Partnership for Reinventing Government (aka National Performance Review or NPR). Note: the library is now closed & only maintained in archive.	<a href="http://govinfo.library.unt.edu/npr/index.htm">http://govinfo.library.unt.edu/npr/index.htm</a>
Naval Supply Systems Command (NAVSUP)	<a href="http://www.navsup.navy.mil/npi/">http://www.navsup.navy.mil/npi/</a>
Navy Acquisition One Source	<a href="http://www.abm.rda.hq.navy.mil/">http://www.abm.rda.hq.navy.mil/</a>
Navy Acquisition Reform	<a href="http://www.acq-ref.navy.mil/index.cfm">http://www.acq-ref.navy.mil/index.cfm</a>
Navy Electronic Commerce On-line	<a href="http://www.neco.navy.mil/">http://www.neco.navy.mil/</a>
Navy Financial Management and Comptroller	<a href="http://www.fmo.navy.mil/policies/regulations.htm">http://www.fmo.navy.mil/policies/regulations.htm</a>
Navy General Counsel	<a href="http://www.ogc.navy.mil/">http://www.ogc.navy.mil/</a>
Navy Home Page	<a href="http://www.navy.mil">http://www.navy.mil</a>
Navy Directives and Regulations	<a href="http://neds.nebt.daps.mil/">http://neds.nebt.daps.mil/</a>



Website Name	Web Address
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Navy Research, Development and Acquisition	<a href="http://www.hq.navy.mil/RDA/">http://www.hq.navy.mil/RDA/</a>
North American Industry Classification System (the Standard Industry Code)	<a href="http://www.osha.gov/oshstats/sicser.html">http://www.osha.gov/oshstats/sicser.html</a>

## O

Office of Acquisition Policy within GSA	<a href="http://www.gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=8203&amp;channelPage=/ep/channel/gsa/Overview.jsp&amp;channelId=-13069">http://www.gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=8203&amp;channelPage=/ep/channel/gsa/Overview.jsp&amp;channelId=-13069</a>
Office of Federal Procurement Policy (OFPP) Best Practices Guides	<a href="http://www.acqnet.gov/Library/OFPP/BestPractices/">http://www.acqnet.gov/Library/OFPP/BestPractices/</a>
Office of Government Ethics (OGE)	<a href="http://www.usoge.gov">http://www.usoge.gov</a>
Office of Management and Budget (OMB)	<a href="http://www.whitehouse.gov/omb/">http://www.whitehouse.gov/omb/</a>

## P

Per Diem Rates (GSA)	<a href="http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/travel.htm">http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/travel.htm</a>
Per Diem Rates (DoD)	<a href="http://www.dtic.mil/perdiem/">http://www.dtic.mil/perdiem/</a>
Per Diem Rates (OCONUS)	<a href="http://www.state.gov/m/a/als/prdm/">http://www.state.gov/m/a/als/prdm/</a>
Producer Price Index	<a href="http://www.bls.gov/ppi/">http://www.bls.gov/ppi/</a>
Program Manager (a periodical from DAU)	<a href="http://www.dau.mil/pubs/pmtoc.asp">http://www.dau.mil/pubs/pmtoc.asp</a>
Public Contract Law Journal	<a href="http://www.law.gwu.edu/pclj/">http://www.law.gwu.edu/pclj/</a>
Public Papers of the President of the United States	<a href="http://www.access.gpo.gov/nara/pubpaps/srchpaps.html">http://www.access.gpo.gov/nara/pubpaps/srchpaps.html</a>
Purchase Card Program	<a href="http://purchasecard.saalt.army.mil/default.htm">http://purchasecard.saalt.army.mil/default.htm</a>

## R

Rand Reports and Publications	<a href="http://www.rand.org/publications/">http://www.rand.org/publications/</a>
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## S

SearchMil (search engine for .mil websites)	<a href="http://www.searchmil.com/">http://www.searchmil.com/</a>
Service Contract Act Directory of Occupations	<a href="http://www.dol.gov/esa/regs/compliance/whd/wage/main.htm">http://www.dol.gov/esa/regs/compliance/whd/wage/main.htm</a>
Share A-76 (DOD site)	<a href="http://emissary.acq.osd.mil/inst/share.nsf">http://emissary.acq.osd.mil/inst/share.nsf</a>
Small Business Administration (SBA)	<a href="http://www.sba.gov/">http://www.sba.gov/</a>

Website Name	Web Address
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Small Business Administration (SBA) Government Contracting Home Page	<a href="http://www.sba.gov/GC/">http://www.sba.gov/GC/</a>
Small Business Innovative Research (SBIR)	<a href="http://www.acq.osd.mil/sadbu/sbir/">http://www.acq.osd.mil/sadbu/sbir/</a>
Standard Industry Code (now called the North American Industry Classification System)	<a href="http://www.osha.gov/oshstats/sicser.html">http://www.osha.gov/oshstats/sicser.html</a>
Steve Schooner's homepage	<a href="http://www.law.gwu.edu/facweb/sschooner/">http://www.law.gwu.edu/facweb/sschooner/</a>

## T

Travel Regulations	<a href="http://www.dtic.mil/perdiem/trvlregs.html">http://www.dtic.mil/perdiem/trvlregs.html</a>
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## U

U.S. Business Advisor (sponsored by SBA)	<a href="http://www.business.gov">http://www.business.gov</a>
U.S. Code	<a href="http://uscode.house.gov/search/criteria.php">http://uscode.house.gov/search/criteria.php</a>
U.S. Code	<a href="http://www.gpoaccess.gov/uscode/index.html">http://www.gpoaccess.gov/uscode/index.html</a>
<b>U.S. Congress on the Net</b>	<b><a href="http://thomas.loc.gov">http://thomas.loc.gov</a></b>
U.S. Court of Appeals for the Federal Circuit (CAFC)	<a href="http://www.fedcir.gov/">http://www.fedcir.gov/</a>
U.S. Court of Federal Claims	<a href="http://www.uscfc.uscourts.gov/">http://www.uscfc.uscourts.gov/</a>
U.S. Department of Agriculture (USDA) Graduate School	<a href="http://grad.usda.gov/">http://grad.usda.gov/</a>
UNICOR (Federal Prison Industries, Inc.)	<a href="http://www.unicor.gov/">http://www.unicor.gov/</a>

## W

Wage Determination On-Line	<a href="http://www.wdol.gov/">http://www.wdol.gov/</a>
Where in Federal Contracting?	<a href="http://www.wifcon.com/">http://www.wifcon.com/</a>

Newsletter Name	Web Address to Subscribe
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Air Force Contracting	<a href="http://www.safaq.hq.af.mil/contracting/toolkit/distribution-list.html">http://www.safaq.hq.af.mil/contracting/toolkit/distribution-list.html</a>
Air Force Materiel Command (AFMC) Contract Update	<a href="https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/PK/pkp/polvault/e-signup.htm">https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/PK/pkp/polvault/e-signup.htm</a>
Army Materiel Command (AMC) Updates (see subscribe link bottom of website)	<a href="http://www.amc.army.mil/amc/rda/pvault.html">http://www.amc.army.mil/amc/rda/pvault.html</a>
Defense and Security Publications via GPO Access	<a href="http://listserv.access.gpo.gov/scripts/wa.exe?SUBED1=gpo-defpubs-l&amp;A=1">http://listserv.access.gpo.gov/scripts/wa.exe?SUBED1=gpo-defpubs-l&amp;A=1</a>
Defense Federal Acquisition Regulation Supplement (DFARS) News	<a href="http://www.acq.osd.mil/dp/dars/dfarmail.htm">http://www.acq.osd.mil/dp/dars/dfarmail.htm</a>
DOD Acquisition Initiatives (DUSD(AR))	<a href="http://acquisitiontoday.dau.mil/">http://acquisitiontoday.dau.mil/</a>
Federal Acquisition Regulation (FAR) News	<a href="http://www.arnet.gov/far/mailframe.html">http://www.arnet.gov/far/mailframe.html</a>
Federal Register via GPO Access	<a href="http://listserv.access.gpo.gov/scripts/wa.exe?SUBED1=fedregtoc-l&amp;A=1">http://listserv.access.gpo.gov/scripts/wa.exe?SUBED1=fedregtoc-l&amp;A=1</a>
Government Accountability Office (GAO) Reports Testimony, and/or Decisions	<a href="http://www.gao.gov/subtest/subscribe.html">http://www.gao.gov/subtest/subscribe.html</a>
GPO Listserv	<a href="http://listserv.access.gpo.gov/">http://listserv.access.gpo.gov/</a>
GSA Listserv	<a href="http://listserv.gsa.gov/archives/index.html">http://listserv.gsa.gov/archives/index.html</a>
Navy Acquisition One Source website updates	<a href="http://www.abm.rda.hq.navy.mil/navyaos/content/view/full/3218">http://www.abm.rda.hq.navy.mil/navyaos/content/view/full/3218</a>